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E-Filed: June 11, 2010

10
11 **UNITED STATES BANKRUPTCY COURT**

12 **DISTRICT OF NEVADA**

13 In Re:

Case No.: BK-S-09-17730-lbr

14 DONALD AND SONJA MIGUEL,

Chapter 13

15 Debtor(s).

Date: July 21, 2010

Time: 10:30 a.m.

Trustee: Kathleen A. Leavitt

16 **LIMITED OPPOSITION**

17 The Debtors, DONALD AND SONJA MIGUEL, (hereinafter "Debtors"), by and through
18 their attorney, Laura L. Fritz, Esq., of the law firm of ANDREW S. T. FRITZ, LTD., oppose the
19 motion of HSBC Bank USA, (hereinafter "Creditor"), for relief from the automatic stay.

20 **POINTS AND AUTHORITIES**

21 **RELEVANT FACTS**

- 22
- 23 1. On May 13, 2009, the Debtors filed a chapter 13 bankruptcy.
 - 24 2. The Debtors do not agree that they are three months delinquent. Over the past several
25 months they remitted checks numbered 3242, 3216, 3153, 3152 and 2159 each in the
26 amount of \$3,739.65.
 - 27 3. Check number 2159 was dated for December 22, 2009, but did not clear the Debtors'
 - 28

1 bank account until March 30, 2010.

- 2 4. The Debtors would like to move forward with an Adequate Protection Order to resolve
3 any remaining late penalties and/or attorney's fees.

4 **APPLICABLE LAW**

5 11 U.S.C. Section 362(d) allows for the modification or termination of the automatic stay
6 for cause, including the following:
7

- 8 (1) for cause, including the lack of adequate protection of an interest in property of such
9 party in interest; or
10 (2) with respect to a stay of an act against property under subsection (a) of this section, if-
11 (A) the debtor does not have an equity in such property; and
12 (B) such property is not necessary to an effective reorganization.

13 The Debtors want to retain the home and resume payments. Pursuant to subsection (A),
14 there may be equity in the home. In addition, the home is necessary to an effective
15 reorganization pursuant to subsection (B).

16 Accordingly, the Debtors respectfully request a continuance so that an Adequate
17 Protection Order may be drafted and filed with the courts. If Adequate Protection is entered into
18 prior to the hearing then this Limited Opposition would be taken off calendar.

19 Dated: June 11, 2010

20 /S/ Laura L. Fritz, Esq.
21 ANDREW S. T. FRITZ, LTD.
22 Laura L. Fritz, Esq.
23 Attorney for the Debtor(s)
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